

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the )  
TRUSTEE FOR NATURAL RESOURCES )  
FOR THE STATE OF OKLAHOMA, )  
Plaintiff, )  
vs. ) 4:05-CV-00329-TCK-SAJ  
TYSON FOODS, INC., et al, )  
Defendants. )

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THE VIDEOTAPED 30(b)(6)

DEPOSITION OF GARY MURPHY, produced as a witness  
on behalf of the Plaintiff in the above styled and  
numbered cause, taken on the 30th day of July, 2007,  
in the City of Fayetteville, County of Washington,  
State of Arkansas, before me, Lisa A. Steinmeyer, a  
Certified Shorthand Reporter, duly certified under  
and by virtue of the laws of the State of Oklahoma.

**Exhibit 29**

TULSA FREELANCE REPORTERS  
918-587-2878

cfadc0d5-93e0-43fd-be31-f9faf22507da

1 A Yes, sir.

2 Q Does Simmons own any dead birds at any time?

3 A No, sir.

4 Q Those are owned by whom?

5 A If dead birds can be owned, I guess it would 01:38PM  
6 be a grower.

7 Q All right. That's -- does Simmons provide any  
8 transportation to pick up or dispose of dead birds  
9 for growers?

10 A No, sir. 01:39PM

11 Q Does Simmons in fact dispose of any dead birds  
12 for growers?

13 A No, sir.

14 Q Does Simmons set the schedule for placement of  
15 birds for a grower? 01:39PM

16 A Yes, sir.

17 Q And does Simmons set the schedule for the pick  
18 up of those birds from the grower?

19 A Yes, sir.

20 Q Does Simmons determine the quality of the 01:39PM  
21 birds being delivered to the individual growers?

22 A Yes, sir.

23 Q What I mean by that is the grower doesn't get  
24 to go pick a flock and bring it back to his place,  
25 does he? 01:39PM

1 A No. Could I go back and address the placement  
2 of the birds?

3 Q Yes, sir.

4 A We do schedule that, but we have situations  
5 where we are and do work with growers who may have a  
6 conflict of getting birds on a certain date,  
7 anything from construction to they may want to take  
8 a vacation and we'll push those birds off.

01:39PM

9 Q Okay, but generally speaking they get a date  
10 they've got to have their houses cleaned and  
11 prepared and ready for the birds on a date that  
12 Simmons normally gives them?

01:40PM

13 MR. ELROD: Object to form.

14 MR. McDANIEL: Form.

15 A There are schedules that are set, of which we  
16 do work with growers on that time.

01:40PM

17 Q Simmons supplies all the feed to the farm for  
18 the growers?

19 A Yes, sir.

20 Q And do they in fact deliver it to the growers  
21 at no cost?

01:40PM

22 A Yes, sir.

23 Q Does Simmons supply all the medication used  
24 for the birds?

25 A Yes, sir.

01:40PM

1 A Typically --

2 Q Let me back up and maybe this will get us  
3 quicker. Is it a wet or dry waste that comes out of  
4 a breeder house versus a broiler house?

5 A It's dry but it has more moisture content than 02:29PM  
6 a broiler.

7 Q You don't have facilities that generate liquid  
8 waste?

9 A No, we don't.

10 Q And is Simmons in the egg producing business 02:29PM  
11 for other than breeding?

12 A No, sir.

13 Q I noticed on the -- in Exhibit 31 the distance  
14 from your various plants or facilities are listed.

15 Is that a mileage distance? 02:30PM

16 A Yes.

17 Q It says mileage info?

18 A Yes.

19 Q Is there a limit by which -- which one of  
20 those facilities is central to determining how far a 02:30PM  
21 grower can be and Simmons would contract with them?

22 A The Fairland feed mill.

23 Q How far then would Simmons go to contract with  
24 somebody that is supplied from that mill?

25 A Nothing outside of a hundred miles. 02:30PM

1 A I'm not aware of anything.

2 Q Is Simmons aware?

3 A Not that I'm aware.

4 Q That would mean I as Simmons; right?

5 A I as Simmons.

03:09PM

6 Q When an investor -- let's back up. In the  
7 '80's and '90's when Simmons had its own operations  
8 and used contract haulers, did those contract  
9 haulers actually clean the houses out themselves;

10 did they do -- did that process include putting it  
11 in the trucks in order to haul it away?

03:09PM

12 A It was my understanding that there were some  
13 of the contract haulers that had their own clean-out  
14 crews, and there was some that actually did the  
15 hauling and there were independent separate crews  
16 for clean out. It was a combination of both.

03:10PM

17 Q Okay, and so Simmons didn't have its own  
18 employees do the clean-out?

19 A That's correct.

20 Q What does Simmons expect or require of its  
21 growers in the way of timing for clean out of the  
22 poultry barns?

03:10PM

23 A Well, it's changed over a number of years.  
24 Presently we would like the growers to clean out on  
25 an annual basis.

03:11PM

1 with its grower?

2 A I'm not sure exactly what I did say earlier  
3 this morning, but I can tell you that it's up to the  
4 growers as to whether he wants to enter into the  
5 contract or not.

04:07PM

6 Q They don't negotiate the terms of that  
7 contract, though, do they?

8 A No, sir.

9 Q Okay.

10 A I don't disagree with that.

04:07PM

11 Q You disagree with it?

12 A I don't disagree with that.

13 Q Let's look at Exhibit 16. Have you ever seen  
14 a manure management plan for water quality created  
15 by the Washington County Soil and Conservation  
16 District?

04:07PM

17 A Not that I can recall.

18 Q Is there anyone in Simmons -- are you talking  
19 personally now or are you talking about Simmons, the  
20 company?

04:08PM

21 A Personally.

22 Q Do you know whether Simmons is familiar with a  
23 Washington County Soil and Water Conservation  
24 District manure management plan for water quality?

25 A I don't think so but I would have to ask Joe

04:08PM